

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Sections 30-757.17 and .171

Specific Purpose:

Section 30-757.17 is amended to change the word "consisting" to "consists." Section 30-757.171 is being amended to delete the ambiguous phrase "This service" and replace it with specific "Protective Supervision" and to add the term "observing."

Factual Basis:

This section is being amended in accordance with the provisions of Welfare and Institutions Code Section 12300(b) which authorizes the provision of protective supervision to be implemented, interpreted and made specific by the Department. The term "observing" is being added for consistency and to specify that Protective Supervision is available for observing behavior.

Sections 30-757.171(a) through (d)

Specific Purpose/Factual Basis:

These sections are being repealed as this text no longer applies to Section 30-757.171.

Section 30-757.171(a) (New)

Specific Purpose:

This section is being adopted to specify that Protective Supervision may be provided through the following or combination of alternative resources as specified by Sections 30-757-171(a)(1), (a)(2) and (a)(3).

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12300(b) which authorizes the provision of protective supervision to be implemented, interpreted and made specific by the Department.

Section 30-757.171(a)(1) (New)

Specific Purpose:

This section is being adopted to specify that Protective Supervision may be provided by assistance from the In-Home Supportive Services program as defined in Section 30-700.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12300(b) which authorizes the provision of protective supervision to be implemented, interpreted and made specific by the Department.

Section 30-757.171(a)(2) (New)

Specific Purpose:

This section is being adopted to specify that Protective Supervision may be provided by assistance from alternative resources, such as adult or child day care centers, community resource centers, and/or Senior Centers.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12300(b) which authorizes the provision of protective supervision to be implemented, interpreted and made specific by the Department.

Section 30-757.171(a)(4) (New)

Specific Purpose:

This section is being adopted to specify that Protective Supervision may be provided by a reassurance phone service when feasible and appropriate.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12300(b) which authorizes the provision of protective supervision to be implemented, interpreted and made specific by the Department.

Sections 30-757.172 through .172(b)(3)

Specific Purpose/Factual Basis:

These sections are being repealed and moved to Sections 30-757.171(a)(1), (2), and (4).

Section 30-757.172 (New)

Specific Purpose:

This section is being adopted to specify when Protective Supervision is not available under certain conditions.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12300(b) which authorizes the provision of protective supervision to be implemented, interpreted and made specific by the Department.

Sections 30-757.172(a) through (e) (New)

Specific Purpose:

These sections are being adopted to specify that Protective Supervision is not considered when it is friendly visiting or other social activities; that is to say, protective supervision is not to be authorized as a substitute for or to provide the recipient with friendly visiting or social activities; or if it is for a medical condition and supervision is medically required; or if it is in anticipation of a medical emergency; or if it is to prevent or control anti-social or aggressive and self-destructive recipient behavior.

Factual Basis:

These sections are being adopted in accordance with the provisions of Welfare and Institutions Code Section 12300(b) which authorizes the provision of protective supervision to be implemented, interpreted and made specific by the Department. This section adds that protective supervision is not assessed in cases of intentional self-destructive behaviors (e.g. suicide).

Section 30-757.173 (New)

Specific Purpose:

This section is being adopted to specify what conditions allow social service staff to determine if Protective Supervision is available.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12300(b) which authorizes the provision of protective supervision to be implemented, interpreted and made specific by the Department.

Section 30-757.173(a) (New)

Specific Purpose:

This section is being adopted to specify that at the time of the initial assessment, social service staff will evaluate if a twenty-four-hours-a-day need exists in order for the recipient to remain safely at home.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12300(b) which authorizes the provision of protective supervision to be implemented, interpreted and made specific by the Department.

Sections 30-757.173(a)(1) and (a)(1)(A) (New)

Specific Purpose:

These section are being adopted to specify that at the time of the initial assessment, social service staff will identify a potential need for protective supervision and request the form SOC 821, "Assessment of Need for Protective Supervision for In-Home Supportive Services Program," be completed by a physician or other appropriate medical professional and returned to the county. The term "appropriate medical professional" is defined in regulation to clarify to counties that only limited medical professionals may complete the SOC 821.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12301.21, enacted by SB 1104 (Chapter 229, Statutes of 2004), which requires the development of a standard form for certifying the need for Protective Supervision. Form SOC 821 is incorporated by reference and is not printed in CDSS' Manual of Policies and Procedures because it would be cumbersome and impractical; however, this form is readily available from the Department. The Department has chosen the definition of an "appropriate medical professional" as our definition for what type of physicians can determine need for Protective Supervision and are competent in assessing for this need.

Section 30-757.173(a)(2) (New)

Specific Purpose:

This section is being adopted to specify that the form SOC 821 shall be used in conjunction with other pertinent information to assess the person's need for Protective Supervision.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12301.21, enacted by SB 1104 (Chapter 229, Statutes of 2004).

Section 30-757.173(a)(3) (New)

Specific Purpose:

This section is being adopted to specify that the form SOC 821 shall not be determinative in the person's need for Protective Supervision, but considered as one indicator for that service.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12301.21, enacted by SB 1104 (Chapter 229, Statutes of 2004).

Section 30-757.173(a)(4) (New)

Specific Purpose:

This section is being adopted to specify if the form SOC 821 is not returned or it is returned incomplete to the county, the social service staff may make its determination of need based upon other available information.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12301.21, enacted by SB 1104 (Chapter 229, Statutes of 2004).

Handbook Section 30-757.173(a)(5) et seq. (New)

Specific Purpose:

These sections are being adopted to provide other available evidence the county may use when determining the need for Protective Supervision if the form SOC 821 is not returned to the county.

Factual Basis:

These sections are being adopted in accordance with the provisions of Welfare and Institutions Code Section 12301.21, enacted by SB 1104 (Chapter 229, Statutes of 2004).

Section 30-757.173(b) (New)

Specific Purpose:

This section is being adopted to specify that at the time of reassessment, social service staff will determine the need to renew the form SOC 821, "Assessment of Need for Protective Supervision for In-Home Supportive Services Program."

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12301.21, enacted by SB 1104 (Chapter 229, Statutes of 2004).

Section 30-757.173(b)(1) (New)

Specific Purpose:

This section is being adopted to specify that if an updated form SOC 821 is determined necessary, it will be requested and documented in the recipient's case file by the social service staff.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12301.21, enacted by SB 1104 (Chapter 229, Statutes of 2004).

Section 30-757.173(c) (New)

Specific Purpose:

This section is being adopted to clarify that IHSS recipients may request protective supervision and that they can obtain the SOC 821 from their physician or other appropriate medical professional and submit to the county.

Factual Basis:

This amendment is necessary to clarify that all IHSS services, including protective supervision, may be requested by a recipient in accordance with the provisions of Welfare and Institutions Code Section 12300.

Section 30-757.174 (Renumbered from Section 30-757.173)

Specific Purpose:

This section is being renumbered from Section 30-757.173 to maintain numerical consistency. Further, it is amended to clarify that social service staff will discuss the Protective Supervision twenty-four-hours-a-day supervision need care plan with the

recipient, or the recipient's guardian or conservator, and the appropriateness of out-of home care as an alternative to protective supervision.

Factual Basis:

This section is being adopted in accordance with the provisions of Welfare and Institutions Code Section 12301.21, enacted by SB 1104 (Chapter 229, Statutes of 2004).

Section 30-761.12

Specific Purpose:

This section is being amended to correct the cross-reference to the regulation section that describes the purpose of the IHSS program.

Factual Basis:

This amendment is necessary to correctly cross-reference the regulation section that defines the IHSS program.

Section 30-761.13

Specific Purpose:

This section is being amended to add cross-references to new requirements that provide the option of extending the reassessment period up to six months beyond the regular 12-month period when certain conditions are met.

Factual Basis:

The amendment is necessary for consistency with new requirements that permit counties the option to extend the regular 12-month assessment period if certain conditions exist as mandated by Welfare and Institutions Code Section 12301.1(c)(1), enacted by SB 1104 (Chapter 229, Statutes of 2004).

Sections 30-761.212, .212(a) and Handbook Sections 30-761.213 and .214

Specific Purpose:

Sections 30-761.212 and .212(a) are being amended to add cross-references that provide the option of extending the reassessment period up to six months beyond the regular 12-month period when certain conditions are met. The sections are also amended to describe the type of assessment as a face-to-face assessment. The handbook sections have been added to provide two examples that demonstrate: 1) the end of the twelfth calendar month for the reassessment to occur, and 2) the adjustment of the 12-month period when a reassessment occurs prior to the end of the twelfth calendar month.

Factual Basis:

These amendments are necessary for consistency with new requirements that permit counties the option to extend the regular 12-month assessment period if certain conditions exist as mandated by Welfare and Institutions Code Section 12301.1(c)(1), enacted by SB 1104 (Chapter 229, Statutes of 2004). In addition, the amendment to describe a face-to-face assessment provides clarity and consistency with current regulation Section 30-761.13.

Sections 30-761.215 through .215(h)

Specific Purpose:

These sections are being adopted to establish a county option to extend the reassessment period up to 6 months beyond the regular 12-month period if certain conditions are met and to specify the conditions that must be met to qualify for the extension of the reassessment period.

Factual Basis:

These sections are necessary to comply with the terms of Welfare and Institutions Code Section 12301.1(c)(1), enacted by SB 1104 (Chapter 229, Statutes of 2004) which authorizes a county the option to extend the reassessment period up to 6 months beyond the regular 12-month period for recipients whose needs are not likely to change during the extended period and who would not be at risk by the extending the reassessment period.

Sections 30-761.216 through .216(b)(1)

Specific Purpose:

These sections are being adopted to specify additional circumstances when an extension of the reassessment period up to 6 months beyond the regular 12-month period may still occur if all the conditions at proposed Section 30-761.213(a) through (h) are not met. This section also defines "licensed health care professional" for purposes of Section 30-761.216(b)(1).

Factual Basis:

These sections are necessary to comply with the terms of Welfare and Institutions Code Section 12301.1(c)(2), enacted by SB 1104 (Chapter 229, Statutes of 2004), that provides for additional circumstances which may qualify to extend the reassessment period if all the requirements of Welfare and Institutions Code Section 12301.1(c)(1) are not met. A definition for "licensed health care professional" is necessary within this regulation section in order to distinguish the meaning from the existing definition in Section 30-701(l)(2).

Section 30-761.217

Specific Purpose:

This section is being adopted to instruct the county that opts to extend the assessment, to document the basis for the determination to extend the reassessment period in the case file.

Factual Basis:

This section is necessary to ensure that there is appropriate documentation to support the determination to extend the reassessment period on the basis that the recipient's needs are not likely to change during the extended reassessment period as prescribed by the criteria set forth at Welfare and Institutions Code Section 12301.1(c), enacted by SB 1104 (Chapter 229, Statutes of 2004).

Section 30-761.218 (Renumbered from Section 30-761.213)

Specific Purpose:

This section is renumbered and amended to specify that a reassessment may occur in less than a 12-month period when the recipient's needs are expected to decrease.

Factual Basis:

This amendment is necessary to comply with the specific terms of Welfare and Institutions Code Section 12301.1(c)(3), enacted by SB 1104 (Chapter 229, Statutes of 2004).

Sections 30-761.219 through .219(b)

Specific Purpose:

These sections are being adopted to establish the requirement for counties to conduct reassessments prior to the end of the reassessment period when the recipient requests a reassessment due to a change in circumstances affecting the recipient's supportive services' needs or when there are other indications or expectations of a change in circumstances affecting the recipient's need for supportive services.

Factual Basis:

These section are necessary to comply with the specific terms of Welfare and Institutions Code Section 12301.1(d), enacted by SB 1104 (Chapter 229, Statutes of 2004).

b) Identification of Documents Upon Which Department Is Relying

- SB 1104 (Chapter 229, Statutes of 2004), Sections 41 and 44.

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not on school districts. If the Commission on State Mandates determines that these regulations contain reimbursable costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.